

## Child Labour and Child Rights in India

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### Abstract

Abstract- The children of any country are its valuable assets. No nation on the globe can ignore the responsibility to ensure the proper growth and development of the Children as the future of the country lies with them. According to the International Labour Organisation, One in eight children in the world are exposed to the worst forms of child labour which endanger children's physical, mental health and moral well being. The situation in India is worsening. Despite hectic planning, welfare programmes, legislation, and administrative action in the past six decades, a large majority of the Indian Children continue to remain in distress & turmoil. In most families neglect them, caretakers batter them and in work-places employers sexually abuse them. Child labour continues to flourish in both rural and urban India. Though this problem of emotional, physical and sexual abuse of children is increasing in India, it has failed to capture the attention of sociologists, social workers and psychiatrists. The public and the government also are yet to recognize it as a serious problem. This paper tries to examine the nature, extent, magnitude and impact of Child labour. The paper also makes an attempt to locate the significance of Child rights & concludes with some measures from a strategic perspective to pause the increase of child labour in India.

### Introduction

Children and childhood across the world, have broadly been construed in terms of a 'golden age' that is synonymous with innocence, freedom, joy, play and the like. It is the time when, spared the rigours of adult life, one hardly shoulders any kind of responsibility or obligations. But, then, it is also true those children are vulnerable, especially when very young. The fact that children are vulnerable, they need to be cared for and protected from 'the harshness of the world outside' and around.<sup>1</sup> [1]. Children need to grow in an environment that enables them to lead a life of freedom and dignity. Opportunities for education and training are to be provided for them to enable them to grow into responsible and responsive citizens. Unfortunately a large proportion of children are deprived of their basic rights. They are found working in

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various sectors of the economy particularly in the unorganized sector. Some of them are confined and beaten, reduced to slavery or denied the guaranteed fundamental right of access to free and compulsory education thus making child labour a human rights issue and a developmental issue. World Health Organization advocates for early child development to be integrated in national and international policies aimed at improving population health and achieving greater health equity for all.

According to the UN Convention on Child Rights, all children are equal, and have human rights such as the right to food, shelter, health care, education and freedom from violence, neglect and exploitation. Today, throughout the world, around 215 million children work, many full-time. They do not go to school and have little or no time to play. Many do not receive proper nutrition or care. They are denied the chance to be children. More than half of them are exposed to the worst forms of child labour such as work in hazardous environments, slavery, or other forms of forced labour, illicit activities including drug trafficking and prostitution, as well as involvement in armed conflict.<sup>ii</sup> [2]. The ILO Convention No. 138 of 1973 refers to child labour as ‘any economic activity performed by a person under the age of fifteen provided, fifteen is not less than the age of completion of compulsory schooling’. As per the Child Labour (Prohibition and Regulation) Act, 1986, ‘a child below the age of fourteen years should not be employed to work in any factory or mine or engaged in any other hazardous employment’. The Factors which contribute to the phenomenon of Child Labour are: mindsets of parents, mindset of employers and perceptions of the civil society which are responsible for the origin, continuance and perpetuation of the phenomenon of child labour. In India, other factors like pervasive poverty, massive unemployment, and parental migration from place to place in search of livelihood, poorer spread of education facilities; disorganization of families all fuelled the exploitation of child workers. The Child Labour (Prohibition and Regulation) Act was enacted in 1986, to specifically address the situation of child labour. However, this law is inadequate both in its understanding and the framework that it provides for dealing with the problem of child labour. By distinguishing between hazardous and non-hazardous forms of labour, and identifying certain processes and occupations from which children are prohibited from working, it leaves out a large range of activities that children are engaged in and thus continue to be exploited and abused.<sup>iii</sup>

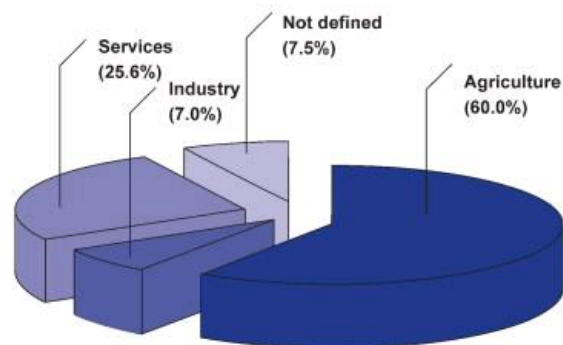
### **Childhood: A Time of Vulnerability and Opportunity**

Early childhood development is considered to be a most important phase in life which determines the quality of health, well-being, learning and behaviour across the life span. It is a period of great opportunity, but also of great vulnerability to negative influences and constitutes a unique phase for capitalizing on developmental forces to prevent or minimize disabilities and potential secondary conditions. The course that development takes in each person depends critically on the quality of stimulation, support and nurturance that the child experiences in his or her family, neighbourhood, and care environments. When these are deficient or unsupportive child development can be seriously and even irreversibly affected.<sup>iv</sup> According to the UN Convention on Child Rights, all children are equal, and have human rights such as the right to food, shelter, health care, education and freedom from violence, neglect and exploitation. The Convention also states that children have the right to participate in decision-making and due weight should be given to their opinions, according to their age and maturity. This means that children and young people have the right to participate in family decisions, in school and class decisions, in faith communities, in their cultural and sporting organizations, and also in local and national government, and in the UN and other international bodies. Children and young people often represent over 40 percent of the societies in which they live, yet they have traditionally been excluded from decision-making all over the world. Children have the right to freedom of expression, to form and join associations and to seek and receive appropriate information. These rights should empower children to bring about changes in their own lives, to build a better future.<sup>v</sup>

### **Rights of the Children**

- Based on the Convention on the Rights of the Child, The Rights of the Children are as follows
- Every child has the inherent right to life.
- Protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life.
- Ensure maximum extent possible, for the survival and development of the child.
- Protection against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.
- The best interests of the child shall be a primary consideration in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies,
- To be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.
- Ensure such protection and care as necessary, for his or her wellbeing, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

**Figure: Child labour distribution by branch of economic activity, 5-17 years old.**



Source: International Labour Organization. Available at: <http://www.ilo.org/ipecc/facts/lang--en/index.htm>.

The agriculture sector comprises activities in agriculture, hunting forestry, and fishing. The industry sector includes mining and quarrying, manufacturing, construction, and public utilities (electricity, gas and water). The services sector consists of wholesale and retail trade; restaurants and hotels; transport, storage, and communications; finance, insurance, real-estate, and business services; and community as well as social personal service.

### **The Worst forms of Child Labour**

Whilst child labour takes many different forms, a priority is to eliminate without delay the worst forms of child labour as defined by Article 3 of ILO Convention No. 182:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Labour that jeopardizes the physical, mental or moral well-being of a child, either because of its nature or because of the conditions in which it is carried out, is known as “hazardous work”. There are still 115 million children in hazardous work. However, in 2010 the international community adopted a Roadmap for achieving the elimination of the worst forms of child labour by 2016, which stressed that child labour is an impediment to children’s rights and a barrier to development. The Supreme Court of India, in a significant judgment, given on December 10, 1996, while disposing of public interest litigation, aimed at preventing exploitation of children and safeguarding their economic, social and humanitarian rights and banned child labour on hazardous jobs and ensuring their education in appropriate institutions. (The Supreme Court in *M.C.Mehta v. State of Tamil Nadu* (AIR 1997 SC 699)).

### **Magnitude of Child Labour in India**

India has the largest number of working children in the world. Withdrawing them from work and ensuring their rehabilitation is a major challenge facing the country. The proportion of working children to the total labour force is; however, lower in India than in many other developing countries. According to the 2001 Census, 79.7 million children were neither at school nor at work and came under the category of “nowhere children”. The figure was significantly high compared to 1991 census wherein the total number of children in the age group of 5-14 years was 203.3 million; of these 11.28 million children were child workers (6.18 million boys and 5.10 million girls). All children in the age-group of 6-14 years, who should actually be in school but are out of school, are deemed to be actual or potential child labourers. Child labour in India is much of a rural phenomenon than urban. 90.87 per cent of the working children were found to be in the rural areas and only 9.13 per cent were in the urban areas.

### **Impact of Child Labour**

Employing children for labour is an act that endangers a child's physical/emotional health and development without giving the child an opportunity for good education, food and shelter. Of the four major types of child abuses, physical, sexual, emotional and neglect, child labour falls under neglect exploitation and emotional abuse. Child labour is the exploitation of children for commercial reasons. Neglect is a different concept to exploitation and constitutes a failure to provide for a child's basic need. The forms of neglect include physical, educational and emotional. Physical neglect includes inadequate provision of food, housing and clothing, denial of medical care and inadequate hygiene. Educational neglect is the failure to enroll a child at a mandatory school age in school. Emotional neglect is the lack of emotional support such as the failure to provide psychological care, domestic violence and allowing a child to participate in drugs and alcohol abuse. Child worker becomes alienated from the rest of the family, has low self esteem, and is likely to engage in self destructive behaviour. He or she is likely to have impaired psychological development and develop anti social behaviour including lying and living with fear complex.<sup>vi</sup>

### **Elimination of Child Labour**

The elimination of child labour has only recently been recognized as an issue of human rights at work together with freedom of association, the right to collective bargaining, the abolition of forced labour and non-discrimination in occupation and employment.<sup>vii</sup> The following are the some of the measures to eliminate the child labour in India and are:-

1. Universalization of early childhood care and development and quality education for all children.
2. Securing for all children all legal and social protection from all kinds of abuse, exploitation and neglect.
3. Complete abolition of child labour with the aim of progressively eliminating all forms of economic exploitation of children.
4. Monitoring, review and reform of policies, programmes and laws to ensure protection of children's interests and rights.
5. There should be better coordination at national, state, district and block/ward levels targeting elimination of child labour.
6. Protocols should be formulated for the rescue, repatriation and rehabilitation of child labourers.

### **Conclusion**

India is pledged to the establishment of new social order free from all exploitation. Children being our supreme asset, nothing concerning their survival, development, protection and participation should be ignored or sidelined. However, in a country with a large number of floating populations, vast disparities, social conflict and turmoil, the challenge to attend to all their rights is even greater. The rights of children should be a matter of great concern to one and all because the children constitute one of the most vulnerable sections of the present society.

## Endnotes

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<sup>i</sup> Holt, J. (1975). *Escape from Childhood*, Harmondsworth: Penguin Books, London.

<sup>ii</sup> International Labour organization Report. Available at <http://www.ilo.org/ipsec/facts/lang--en/index.htm>. Accessed on 10.10.12

<sup>iii</sup> Savita Bhakhry (2011), 'HUMAN RIGHTS AND CHILD LABOUR' Know Your Rights Series, National Human Rights Commission, New Delhi, India.

<sup>iv</sup> World Health Organization. Available at: [http://www.who.int/maternal\\_child\\_adolescent/topic/child\\_development/en/index.html](http://www.who.int/maternal_child_adolescent/topic/child_development/en/index.html). Accessed on 10.12.2012

<sup>v</sup> UNICEF Report. Available at: [http://www.unicef.org/india/children\\_2740.htm](http://www.unicef.org/india/children_2740.htm). Accessed on 11.10.2012

<sup>vi</sup> Shenoy, A. S. (2006). 'CHILD LABOUR'- International Council on Social Welfare. Available at: [www.icsw.org/doc/CHILD\\_LABOUR\\_14Oct08.doc](http://www.icsw.org/doc/CHILD_LABOUR_14Oct08.doc). Accessed on 10.10.12

<sup>vii</sup> 'Accelerating Action against Child Labour', Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work 2010, International Labour Conference, 99th Session 2010-Report I (B).